

MINUTES

CITY COUNCIL MEETING

AUGUST 24, 2004

A regular meeting of the City Council of the City of Rolling Hills Estates was called to order at 7:32 p.m. in the City Council Chambers, 4045 Palos Verdes Drive North, by MAYOR MITCHELL.

PLEDGE OF ALLEGIANCE

MAYOR MITCHELL led the assembly in the Pledge of Allegiance to the Flag.

ROLL CALL

City Council Members Present: Addleman, Mitchell, Seamans, Zerunyan*, Zuckerman

*COUNCILMAN ZERUNYAN arrived at 7:45 p.m.

City Staff Present: Acting City Manager Sam Wise

City Attorney Richard Terzian

Planning Director David Wahba

Senior Planner Niki Cutler

Community Services Director Andy Clark

Finance Director Jud Norrell

Administrative Analyst Greg Grammer

Traffic Engineer Erik Zandvliet

Others Present: Deborah Davis, Park and Activities Commission

Andy Rein, Planning Commission

CEREMONIAL ITEMS

NONE

ROUTINE MATTERS

A. ADJOURNED CITY COUNCIL MINUTES OF AUGUST 3, 2004

COUNCILWOMAN SEAMANS moved, seconded by MAYOR PRO TEM ADDLEMAN

TO APPROVE THE ADJOURNED CITY COUNCIL MINUTES OF AUGUST 3, 2004 AS PRESENTED.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

B. DEMANDS AND WARRANTS – JULY AND AUGUST

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILWOMAN SEAMANS

TO Approve Warrants 36060 through 36112 in the amount of \$202,801.10; Warrants 36003 through

36004 in the amount of \$1,007.91; Warrants 35903 through 35998 in the amount of \$311,316.68; Warrants 35807 through 35879 in the amount of \$185,629.37; Supplemental Warrants 070401 through 070403; 35731 through 35748; 35797 through 35806; 35821 Void; 35880 through 35889 in the amount of \$489,974.50 for a grand total amount of \$1,190,729.56.

AYES: Addleman, Mitchell, Seamans, Zuckerman

ABSENT: Zerunyan

CONSENT CALENDAR

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZUCKERMAN

TO APPROVE ITEMS A-E.

A. READING OF ORDINANCES AND RESOLUTIONS

Reading in full of all ordinances and resolutions presented for consideration to the City Council will be waived and all such ordinances and resolutions will be read by title only.

B. JULY 2004 SCHEDULE OF INVESTMENTS

RECEIVED AND FILED.

C. LEAGUE OF CALIFORNIA CITIES PRIORITY FOCUS DATED JULY 30, 2004

RECEIVED AND FILED.

D. LEAGUE OF CALIFORNIA CITIES PRIORITY FOCUS DATED AUGUST 6, 2004

RECEIVED AND FILED.

E. LEAGUE OF CALIFORNIA CITIES PRIORITY FOCUS DATED AUGUST 13, 2004

RECEIVED AND FILED.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

AUDIENCE ITEMS NOT ON THE AGENDA/WRITTEN AND ORAL COMMUNICATIONS

A. Craig Knickerbocker, 30 Hidden Valley Road, spoke on behalf of the Rolling Hills Covenant Church. He noted that their leadership is interested in submitting a new application with a substantially reduced project and requested a "first look" subcommittee be appointed to discuss concerns raised by the City.

It was the consensus of the COUNCIL to appoint MAYOR MITCHELL and COUNCILMAN ZUCKERMAN to serve on a subcommittee to evaluate this request and report back to COUNCIL.

Mr. Knickerbocker commended the COUNCIL on their prompt decision approving the Deep Valley Drive mixed use project.

B. Scott Manlief, 28 Ocean Crest Court, Rancho Palos Verdes, requested the COUNCIL formally support Proposition 71 utilizing stem cell research on the November ballot. He commented on the need for this type of procedure as it would affect many diseases that could benefit from this research.

COUNCILWOMAN SEAMANS noted that she, along with MAYOR MITCHELL, attended the Legislative Committee meeting of the SBCCOG and discussed this subject. She informed Mr. Manlief that this item will be placed on their agenda in September and invited him to appear.

Additionally, COUNCILWOMAN SEAMANS requested Proposition 71 be agendized at a future meeting.

C. Bob Myers, 29 Seaview Drive South, noted that he lives 100 feet north of the proposed Crest Road/Highridge Road project to be considered by the Planning Commission at their September 20 meeting. His opposition to the various commercial/retailers in that area was noted and he requested COUNCIL obtain a retail plan from the developer illustrating exactly what is planned at that site. He then distributed additional material to the COUNCIL.

D. COUNCILMAN ZERUNYAN reported that interior demolition activity took place for the proposed community room located at Palos Verdes Drive North/Palos Verdes Drive East. He commended the Delgado family, as well as the Vanden Bos family and his son, for their hard work in renovating this building.

On behalf of the COUNCIL, everyone was thanked for their cooperation and volunteer spirit.

At 7:58 p.m., MAYOR MITCHELL called for a brief recess.

At 8:03 p.m., the CITY COUNCIL reconvened with MAYOR MITCHELL, MAYOR PRO TEM ADDLEMAN, COUNCILWOMAN SEAMANS, COUNCILMAN ZERUNYAN and COUNCILMAN ZUCKERMAN present.

PUBLIC HEARINGS/MEETINGS

A. CMP CONFORMANCE SELF-CERTIFICATION

Recommendation: That the City Council: 1) Open the public hearing; 2) Receive any public testimony; 3) Close the public hearing; and 4) Adopt Resolution No. 2056 and the 2004 CMP Local Development Report.

Administrative Analyst Grammer provided a staff report (as per agenda material).

Brief discussion ensued regarding how credits are utilized for transportation.

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZERUNYAN

TO OPEN THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

No public testimony was offered.

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZERUNYAN

TO CLOSE THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

1. RESOLUTION NO. 2056 FOR ADOPTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROLLING HILLS ESTATES FINDING THE CITY TO BE IN CONFORMANCE WITH THE CONGESTION MANAGEMENT PROGRAM (CMP) AND ADOPTING THE CMP LOCAL DEVELOPMENT REPORT IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 65089.

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZERUNYAN

TO ADOPT RESOLUTION NO. 2056.

Acting City Manager Wise read Resolution No. 2056 by title only.

AYES: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

B. PLANNING APPLICATION NO. 14-04 (SILVER SPUR COURT); APPLICANT: GREG BROWN;
LOCATION: 981 SILVER SPUR ROAD – FORMER MC DONALD'S SITE

Recommendation: That the City Council: 1) Open the public hearing; 2) Take public testimony; 3) Discuss the issues; 4) Close the public hearing; and 5) Adopt Resolution No. 2055 approving the proposed project as well as adopting the associated Mitigated Negative Declaration.

Senior Planner Cutler provided a staff report (as per agenda material).

COUNCILMAN ZUCKERMAN requested a correction to the Response for Comments where it was noted that the "project will generate 26 daily vehicle trips" and substitute that line with "peak hour trips."

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILWOMAN SEAMANS

TO OPEN THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

Stephanos Polyzoides, Moule & Polyzoides Architects, described the project in detail noting that this entryway is critical to the commercial district. He noted that 18 units have access directly from the sidewalk into the courtyard without elevators, corridors, lobbies appearing to be more "houselike" with a traditional color palette.

MAYOR MITCHELL noted there were some geo-technical issues that remain to be addressed in the environmental report. Mr. Polyzoides noted that there is nothing overly difficult and they are responding to those issues.

COUNCILMAN ZUCKERMAN noted a six inch separation between the building and the Post Office and how that can be alleviated. Mr. Polyzoides stated he does not consider this space to be a seismic separation, but could provide some type of permanent barrier to prevent any wildlife from entering. COUNCILMAN ZUCKERMAN then suggested incorporating some type of barrier on the sidewalk to restrict people from looking into the site. Additionally, he stated his concern regarding debris and asked that some thought given to this issue.

Mr. Polyzoides referred to his office having a six inch gap that cannot be seen. He indicated that, if properly landscaped, this would not be an item of concern, but will evaluate this from the sidewalk level.

COUNCILMAN ZUCKERMAN noted that Crenshaw Boulevard is less overpowering than on the northerly elevation. He noted his concerns with the ridgeline being higher than the Post Office.

Mr. Polyzoides indicated that they could not measure the Post Office site accurately and stated this measurement is off by approximately two feet. It was his opinion that the code is unreliable in terms of the overall average height taken.

COUNCILMAN ZUCKERMAN noted the difference in height, but was not convinced that the buffer and blank elevation on the Post Office side provides a rationale for a variance. He does not feel a finding could be made for a special circumstance, but noted this does not relate to the tower. He suggested additional excavation for the parking structure to bring it down further. He went on to comment that he did not believe the units need to be higher than the Post Office as it now appears to be "fortress-like."

Mr. Polyzoides stated that the building height would be elevated for entry lighting.

COUNCILMAN ZUCKERMAN reiterated that more excavation is necessary and believed this project was based on economic reasoning.

Mr. Polyzoides stated that this is a complex site designed for appearance and based on economy and the design presented incorporates both of these items. He noted that other mitigation suggestions in the code is unclear as to where the height of the building is measured as well as establishment of the grade for height measurement purposes.

COUNCILMAN ZUCKERMAN inquired as to the desire for smaller parking spaces and stated his strong concern and why this should not be the case. He believed the determination of parking spaces could be done for full sized cars and believed the proposed reduction to 18 feet spaces coupled with parking across the aisle from each other could be difficult for residents to maneuver.

Mr. Polyzoides indicated that the footage mentioned is standard and is consistent with current practice.

COUNCILMAN ZUCKERMAN disagreed with Mr. Polyzoides regarding this standard as he believed this not to be the case.

Mr. Polyzoides noted he will provide additional parking examples in other areas.

COUNCILWOMAN SEAMANS inquired as to relocation of the entryway sign to the commercial district. Mr. Polyzoides noted that alternative proposals will be brought back to COUNCIL for review.

In response to MAYOR MITCHELL'S inquires, Mr. Polyzoides noted that there will be a sidewalk going up Crenshaw Boulevard and that elevators are included with one located in the garage and the other being utilized for marketing reasons with no change in the storage areas. He noted this has not been finalized as yet.

MAYOR MITCHELL inquired as to the one three-story unit as well as the one bedroom unit.

COUNCILWOMAN SEAMANS noted her concern as to the quality of materials being used. Planning Director Wahba indicated that if the COUNCIL so desires, a condition could be imposed.

COUNCILMAN ZUCKERMAN noted that he is reluctant to enter into that discussion and preferred to let the designer and marketplace deal with that issue as he was confident the developer would build the best project possible.

COUNCILWOMAN SEAMANS noted she would like to be assured that this development is of the same quality as examples of Mr. Polyzoides throughout Southern California.

MAYOR MITCHELL noted that mitigation measures such as noise, solid doors and double-paned windows are necessary in achieving a quality project.

Greg Brown, Applicant, commented that he hired Mr. Polyzoides because of the quality work. He noted that the City expects a certain standard and will rise to exceed that standard as this site will set an architectural standard throughout the state for many years to come.

MAYOR PRO TEM ADDLEMAN inquired as to geology of the site.

Mr. Brown noted that he has relied on qualified consultants to determine if this is a buildable.

Mary Porter, 49 Ranchview Road, inquired as to traffic counts for the intersection at Crenshaw Boulevard and Silver Spur Road and that a project like this could wind up with less parking than there is now. Additionally, Ms. Porter noted that the sidewalk going up Crenshaw Boulevard would not be utilized as it is too steep and stated her objection to the project.

COUNCILMAN ZUCKERMAN noted that this project will generate much less traffic than when McDonald's was there as restaurants tend to have more traffic than residences. He then indicated that the sidewalk

would be necessary in order to service the entrance of those units.

Erik Zandvliet, Traffic Engineer, reiterated that McDonald's did generate more traffic than this proposal and will actually improve the level of service to that intersection.

COUNCILMAN ZUCKERMAN inquired if there is adequate lane width for a striped loading zone on any frontage road.

Mr. Zandvliet noted there is sufficient street width on Crenshaw Boulevard, but not access on Silver Spur Road.

COUNCILMAN ZUCKERMAN inquired if the merge lane will be lost going up Crenshaw and if the loading area will interfere with that existing merge lane.

Discussion continued with Mr. Zandvliet noting that the loading zone could be placed more to the south and still provide enough width. In regard to service drivers, i.e. UPS, he noted they will park where it is most convenient.

COUNCILMAN ZUCKERMAN inquired if anything can be done with the entry to the parking garage and make it more desirable for loading and access purposes.

Mr. Zandvliet noted that the more distance behind the sidewalk the better. He noted that the volume going into the driveway would be low, but still not the most desirable place to park.

Ken Moses, 35 Hillcrest Meadows, inquired if there is a loading zone in the merge lane of Crenshaw Boulevard and if trucks will park at that location. He stated that drivers who want to make a right turn from Silver Spur Road to Crenshaw Boulevard would be blocked. He commented on the Post Office and how it intersects with these buildings as well as the geological stability of the site. It was his opinion that these studies do not appear to be complete as this area seems to be unstable and suggested having a comprehensive geological survey of the site.

Tina M. Cisneros-Mohammed, 28720 Mount Shasta, Rancho Palos Verdes, noted that she works on Deep Valley Drive. She noted her support for this project believing it to be an enhancement to the community as this type of residence is in demand.

COUNCILMAN ZUCKERMAN strongly emphasized that the Board of Realtors look very closely at AB 2702 (second housing units bill) as many council members find this to be inappropriate for local government.

Mr. Polyzoides commented that there is a complete geological report with the recommendations being generally positive which addresses those question.

Additionally, Mr. Polyzoides indicated that there is approximately 5,000 square feet of commercial space which could utilize these parking spaces (in the garage) for drop off locations which would not affect street traffic.

COUNCILMAN ZUCKERMAN inquired as to the difficulty with traffic during construction of the project as there is no staging from the street and asked what can be done to minimize the impact on Silver Spur Road.

Planning Director Wahba noted that staff will work with the Traffic Engineer on a mitigation plan to limit hours of construction so as not to constantly block traffic on Silver Spur Road and add this as a special condition.

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILWOMAN SEAMANS

TO CLOSE THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

MAYOR PRO TEM ADDLEMAN reviewed this plan in its entirety noting he initially had some hesitation based on the geology of the site, but that this was addressed in the report. He then commended staff on an excellent job. He believed this project will be a wonderful entry to the commercial district.

COUNCILWOMAN ZERUNYAN complimented Mr. Polyzoides on what he expects to be a great project, but expressed several concerns regarding the rural and equestrian character of the community as well as the mass shown in the illustration. He noted he is always concerned when the next project comes up and whether or not it will set a precedent.

COUNCILMAN ZUCKERMAN noted that this is a very complex project and did not hear a compelling reason to grant a variance for the two foot difference except for the tower. He stated that the City must be uniform with the code even though questions have arisen as it still applies to the project and would lack equity with other projects. It was noted that parking spaces can be easily adjusted and believed the right angled parking as well as a narrow drive aisle could be problematic.

COUNCILWOMAN SEAMANS inquired as to the measurement process to determine if a variance is warranted and exactly where those measurements took place.

Planning Director Wahba noted that from Silver Spur Road up to Crenshaw Boulevard, the building gets lower in height and is correctly stated on the north elevation. COUNCILWOMAN SEAMANS noted her concern with the massive appearance on Silver Spur Road.

COUNCILMAN ZUCKERMAN noted that this structure is imposing and he could not defend granting a variance with the exception of the tower.

COUNCILWOMAN SEAMANS noted there are reasons to grant a variance at this location as it is a difficult corner and was not concerned with the two foot difference or parking issues. However, she inquired if this could be lowered along the Silver Spur elevation as it would cast a shadow over the street.

Mr. Polyzoides noted his belief that this development should be built and does not take variances lightly.

MAYOR MITCHELL believed that findings could be made for a variance and would rely on the architect's expertise in recognizing the complexity of the design. She noted that the courtyards and parking are linked to each other which would satisfy the parking requirement. She also believed this to be a beautiful project. In regards to the rural aspect, she stated that the commercial-general zone is of a different architectural type versus residential. Additionally, she noted that this building would enhance the C-G Zone rather than detract from existing buildings.

Discussion continued with MAYOR MITCHELL noting that the lot coverage policy needs to be addressed. She requested the COUNCIL discuss whether or not determination of coverage should be based on calculation of the building footprint or by aerial view taking into account the courtyard and landscaping as well as contemplating amendments to the zoning code for these type of structures while adhering to the parking standards.

After brief discussion, it was the consensus of the COUNCIL to consider the aerial view for lot coverage.

Planning Director Wahba noted that the C-G Zone has a lot coverage and landscaping requirement which are separate code requirements.

COUNCILMAN ZERUNYAN noted that this policy should be considered on a case-by-case basis and concurred with MAYOR MITCHELL'S comments regarding the commercial corridor versus residential streets, but his concern is based on the aforementioned fortress appearance of the buildings and believed that they should be separated to make the project appear smaller.

MAYOR MITCHELL recommended continuing this item to the next meeting and requested the Applicant return with alternatives for the north elevation addressing the following concerns: 1) Massiveness of the building; 2) Possibility of expanding on the wood trellis; 3) Additional articulation; and 4) Difference in height.

COUNCILWOMAN SEAMANS suggested reducing the height so that a variance is not required. It was her desire to be proud of this development and would support continuation of the public hearing.

MAYOR PRO TEM ADDLEMAN supported the previous recommendations and take a vote at that time.

COUNCILMAN ZUCKERMAN moved,

TO CONTINUE THE PUBLIC HEARING AND REQUEST THE APPLICANT TO COME BACK WITH A REVISED ELEVATION ALONG SILVER SPUR ROAD THAT CONFORMS TO THE EXISTING HEIGHT LIMIT WITH THE EXCEPTION OF THE TOWER INCLUDING INCREASING THE PARKING SPACES TO FULL SIZE WITH NO VARIANCE EXCEPT FOR THE TOWER.

The motion failed for lack of a second.

After brief discussion, it was the consensus of the COUNCIL to amend the previous motion.

COUNCILMAN ZUCKERMAN then withdrew his motion.

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILWOMAN SEAMANS

TO REOPEN THE PUBLIC HEARING.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

COUNCILWOMAN SEAMANS moved, seconded by MAYOR PRO TEM ADDLEMAN

TO CONTINUE THE PUBLIC HEARING TO THE NEXT MEETING FOR THE PURPOSE OF CONSIDERING AN ALTERNATIVE PROPOSAL TO THE NORTH ELEVATION OF SILVER SPUR ROAD IN ORDER TO ELIMINATE THE HEIGHT VARIANCE REQUEST WITH THE EXCEPTION OF THE TOWER.

AYES: Addleman, Mitchell, Seamans, Zerunyan

NOES: Zuckerman

NEW BUSINESS

A. PLANNING COMMISSION MINUTES OF AUGUST 16, 2004

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN SEAMANS

TO RECEIVE AND FILE THE PLANNING COMMISSION MINUTES OF AUGUST 16, 2004.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

B. PARK AND ACTIVITIES COMMISSION MINUTES OF AUGUST 17, 2004

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZERUNYAN

TO RECEIVE AND FILE THE PARK AND ACTIVITIES COMMISSION MINUTES OF AUGUST 17, 2004.

THERE BEING NO OBJECTION, MAYOR MITCHELL SO ORDERED.

C. BUDGET AMENDMENT NO. 1

Recommendation: That the City Council approve Budget Amendment No. 1 to adjust the City's fiscal year 2004-05 operating and capital projects budgets.

Finance Director Norrell provided a staff report (as per agenda material).

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILMAN ZUCKERMAN

TO APPROVE BUDGET AMENDMENT NO. 1 TO ADJUST THE CITY'S FISCAL YEAR 2004-05 OPERATING AND CAPITAL PROJECTS BUDGETS.

AYES: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

Finance Director Norrell was pleased to report that the general fund revenue had actually increased in a challenging budget year.

COUNCILMAN ZUCKERMAN then referred to correspondence regarding a balance determination on the Deep Valley Drive project grant as it currently remains unfunded. It was his suggestion to discuss this item when the budget is being considered.

MAYOR MITCHELL noted this item will be agendized for the next Mixed Use Committee meeting.

Finance Director Norrell noted that the state may possibly repay monies in the amount of \$120,000 due to the City for various costs expended as well as the \$85,000 for the mandated cost reimbursement program.

D. LANDSCAPE MAINTENANCE SERVICES AGREEMENT

Recommendation: That the City Council continue the Landscape Maintenance Services Agreement with BMC Landscape, Inc., on a month-to-month basis while staff pursues a performance audit of the General Maintenance Division and the Agreement with BMC Landscape, Inc., to make any changes, if necessary, to the City's relationship with the landscape maintenance services provider at the conclusion of the audit.

Community Services Director Clark provided a staff report (as per agenda material).

COUNCILMAN ZERUNYAN noted that he is in favor of the audit in that it will provide important data as to cost-effectiveness of maintenance duties.

MAYOR PRO TEM ADDLEMAN inquired as to the timeframe for this audit. It was noted it take approximately 90 days to select a consultant.

Finance Director Norrell commented that Maintenance Superintendent McConn keeps meticulous records of his employee's duties.

COUNCILWOMAN SEAMANS noted that BMC has done a fine job over many years of service and stated she would support the agreement with no changes.

COUNCILMAN ZUCKERMAN moved, seconded by MAYOR PRO TEM ADDLEMAN

TO CONTINUE THE LANDSCAPE MAINTENANCE SERVICES AGREEMENT WITH BMC LANDSCAPE, INC., ON A MONTH-TO-MONTH BASIS WHILE STAFF PURSUES A PERFORMANCE AUDIT OF THE GENERAL MAINTENANCE DIVISION AND BMC LANDSCAPE, INC., AND BRING BACK FOR COUNCIL REVIEW.

AYES: Zerunyan, Zuckerman

NOES: Addleman, Mitchell, Seamans

COUNCILMAN ZUCKERMAN commented that this audit is not related to the quality of BMC's work, but rather the scope of work to determine if any tasks overlap.

MAYOR MITCHELL noted that BMC has served the City over 15 years without a rate increase and was

generally satisfied with their performance, but supported the audit as it will determine whether or not changes need to be made.

COUNCILMAN ZUCKERMAN noted his preference to act quickly on the proposed audit recommendations once they are received.

Extensive discussion ensued regarding the proposed five-year contract.

MAYOR PRO TEM ADDLEMAN requested review of the Request for Qualifications prior to it being sent and recommended this item be agendaized for the next meeting.

Community Services Director Clark noted that BMC wishes the agreement to remain as currently exists.

MAYOR MITCHELL stated that the insurance should be updated as well as the herbicide report.

Acting City Manager Wise stated that the City's amendments to the contract were not acceptable to BMC.

COUNCILWOMAN SEAMANS concurred with MAYOR MITCHELL commenting that BMC has performed well and wants to see this contractor retained.

COUNCILWOMAN SEAMANS moved,

TO ADOPT A FIVE-YEAR AGREEMENT WITHOUT CHANGES OR A FEE INCREASE DURING THE FIRST TWO YEARS AS PROPOSED BY BMC.

The motion failed for lack of a second.

Extensive discussion ensued regarding how BMC might perceive the proposed changes where it was noted that this audit is no reflection on their work, but rather used as a tool to make the department and contractor more efficient.

Brief discussion ensued with Community Services Director Clark indicating that BMC has been unwilling to provide herbicide information to the City as required by law.

COUNCILWOMAN SEAMANS moved, seconded by MAYOR PRO TEM ADDLEMAN

TO ADOPT A FIVE-YEAR AGREEMENT WITH NO FEE INCREASE FOR THE FIRST TWO YEARS AS PROPOSED BY BMC LANDSCAPE WITH THE FOLLOWING CHANGES AS PROPOSED BY STAFF: 1) UPDATING THE LIABILITY SECTION TO CONFORM WITH THE LANGUAGE REQUIRED BY CALIFORNIA JOINT POWERS INSURANCE AUTHORITY FOR INSURANCE; AND 2) COMPLY WITH THE STATE OF CALIFORNIA AGRICULTURE COMMISSIONER'S OFFICE ADDING LANGUAGE THAT REQUIRES SUBMITTAL OF A COPY OF ALL HERBICIDE SPRAYING RECOMMENDATION FORMS PREPARED BY BMC LANDSCAPE TO THE CITY TO MAINTAIN ON FILE, AND BRING BACK THE PERFORMANCE AUDIT REQUEST FOR QUALIFICATIONS TO THE COUNCIL FOR REVIEW AT THE NEXT MEETING.

AYES: Addleman, Mitchell, Seamans

NOES: Zerunyan, Zuckerman

OLD BUSINESS

A. THREE-RAIL FENCE BID RESULTS

Recommendation: That the City Council approve the Agreement with Bennett Landscape for replacement of three-rail fencing in the City's rights-of-way in the amount of \$19,511.

Community Services Director Clark provided a staff report (as per agenda material). He noted that the requested comparison of materials report will be given to City Manager Prichard.

MAYOR PRO TEM ADDLEMAN moved, seconded by COUNCILWOMAN SEAMANS

TO APPROVE THE AGREEMENT WITH BENNETT LANDSCAPE FOR REPLACE OF THREE-RAIL FENCING IN THE CITY'S RIGHTS-OF-WAY IN THE AMOUNT OF \$19,511 AND DIRECTED STAFF TO PREPARE A LETTER FOR THEIR ACCEPTANCE OF THE MOST CURRENT CALIFORNIA JOINT POWERS INSURANCE AUTHORITY'S INSURANCE REQUIREMENTS.

AYES: Addleman, Mitchell, Seamans, Zerunyan, Zuckerman

CITY ATTORNEY ITEMS

NONE

CITY COUNCIL/REGIONAL COMMITTEE REPORTS: This item provides the opportunity for Members of the City Council to provide information and reports to other Members of the City Council and/or the public on any issues or activities of currently active Council Committees, ad hoc committees, regional or state-wide governmental associations, special districts and/or joint powers authorities and their various committees on which Members of the City Council might serve or have an interest, which are not otherwise agendized.

A. COUNCILWOMAN SEAMANS

1. MEETING OF CITY COUNCIL REPRESENTATIVES FROM THE CITY PROPERTY REUSE SUBCOMMITTEE

Community Services Director Clark provided a brief recap of this meeting noting that a report will be forthcoming with suggestions on establishing a reservation policy, budget, landscape plan and schematic. It was noted to agendize this item as a public meeting item.

MAYOR MITCHELL noted she would like to see the proposed plans prior to any further action being taken at the next meeting.

B. COUNCILMAN ZUCKERMAN reported that he attended the Regional Law Enforcement Committee meeting noting that the main item discussed was the Student and the Law Program. He stated that, since it is difficult to provide data as to the effectiveness of this class, the Committee suggested that council members, as well as Committee members, attend a class unannounced to determine for themselves if this program should be continued.

C. COUNCILMAN ZUCKERMAN reported that he attended the West Vector Control meeting. He noted the primary issue of discussion was operational and whether it is feasible to employ additional private contractors to assist them at this busy time. It was also reported that a slight increase was instituted per household to address West Nile Virus issues.

COUNCILMAN ZERUNYAN expressed his strong concern regarding a message on the Vector Control's answering machine as to whether or not this agency was interested in responding to citizen concerns regarding dead birds. COUNCILMAN ZUCKERMAN indicated he will investigate this further.

D. MAYOR PRO TEM ADDLEMAN reported he attended the Sanitation Districts meeting where discussion took place regarding AB 2702. He strongly recommended that the public contact the Governor at the following phone numbers: Sacramento (916) 445-2841 or his local office at (213) 897-0322 urging him to veto this bill.

E. COUNCILWOMAN SEAMANS noted that fundraising efforts for Proposition 1A seem to have stalled. She stated she will continue to work on this and encouraged the public's support.

MAYOR AND COUNCIL ITEMS: This item provides the opportunity for Members of the City Council to request information on currently pending projects and/or issues of public concern, direct that an item be agendized for future consideration and/or make announcements of interest to the public.

A. MAYOR MITCHELL invited everyone to attend the City Celebration on Saturday, September 18 at the Empty Saddle Club.

B. COUNCILWOMAN SEAMANS noted she will attend the League of California Cities' general membership breakfast the morning of September 18 at 7:30 a.m.

ADJOURNMENT

At 11:31 p.m., MAYOR MITCHELL formally adjourned the City Council meeting to a joint City Council/Planning Commission meeting on Tuesday, September 7, 2004 at 6:00 p.m.

Submitted by, Approved by,

Hope J. Nolan Douglas R. Prichard

Deputy City Clerk City Clerk